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Attorneys for Defendant 23andMe, Inc.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DAVID MELVIN and J.L., on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

23ANDME, INC.,

Defendant.

CASE NO. 3:24-cv-0487

Hon. Edward M. Chen

**DEFENDANT 23ANDME, INC.'S
ADMINISTRATIVE MOTION FOR LEAVE
TO FILE REPLY TO PLAINTIFFS'
RESPONSE TO DEFENDANT'S MOTION
FOR EXTENSION (ECF Nos. 23, 26; L.R. 7-
11)**

Pursuant to Northern District Local Rule 7-11 and this Court’s December 1, 2022 Standing Order, Defendant 23andMe, Inc. (“23andMe”) respectfully requests leave to file a reply Plaintiffs’ Response to Defendant’s Motion for Extension.

On February 12, 2024, 23andMe filed its Administrative Motion to Continue Deadline to Respond to the Complaint Until After Case Management Conference, ECF No. 23 (the “Motion”). Plaintiffs filed a Response to the Motion on February 16, 2024, ECF No. 26 (the “Response”). In the Response, Plaintiffs assert numerous misstatements and misrepresentations of the record, including but not limited to: (1) that they oppose 23andMe’s extension request based on a news article issued this week—which is not true, as Plaintiffs have never agreed to an extension since February 1, 2024, when 23andMe first requested it; (2) that 23andMe is launching unprecedented research projects—which is not true, as 23andMe has provided its customers the option to consent to medical research that may be relevant to them for *years*; (3) that a continuance of 23andMe’s response deadline is not warranted until 23andMe provides assurances of its security practices—which is irrelevant, because the Incident did not arise from 23andMe’s security practices, which have been for years above industry standard for direct-to-consumer genetic companies, but arose from a credential stuffing attack on a narrow subset of accounts that used login credentials compromised from other platforms; and (4) that 23andMe agreed to stipulate to waive its right to compel arbitration—which is not an accurate statement of record of the parties’ correspondence.

23andMe seeks leave file a reply that corrects this misstatements and mischaracterizations of the record, and 23andMe’s reply will aid the Court in its ruling on 23andMe’s Motion. *See In re Cathode Ray Tube (CRT) Antitrust Litig.*, No. 3:14-CV-02510, 2014 WL 7206620, at *1 n.2 (N.D. Cal. Dec. 18, 2014) (granting leave to file a surreply “in the interests of completeness and judicial efficiency.”)

For the reasons stated, 23andMe respectfully requests leave to file a four-page Reply to the Response.

DATED: February 16, 2024

GREENBERG TRAURIG, LLP

By: /s/ Ian C. Ballon

Ian C. Ballon

Attorneys for Defendant, 23andMe, Inc.,